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ALAIN PAINCHAUD
724 STE MARIE
QUEBEC G1R 3G8 CANADA

COPY MAILED

DEC 28 2006

OFFICE OF PETITIONS

In re Application of :
Alain Painchaud :
Application No. 10/711,662 : SUPPLEMENTAL DECISION
Filed: September 29, 2004 :
For: BRIDGE CONVERTING :
MOVEMENT INTO ELECTRICAL ENERGY :

This is a supplemental decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 6, 2006, to revive the above-identified application.

A decision on the petition to revive filed on June 6, 2006 was mailed on December 7, 2006, stating that the required fee of \$750 for the petition was not received and dismissed the petition to revive. The decision also indicated that the argument filed on June 25, 2006 to the final Office action August 11, 2005 would be referred to the Examiner to determine whether the argument presented would overcome the rejections set forth in the Office action of August 11, 2005 and place the application in *prima facie* condition for allowance.

The Examiner has indicated that the reply would not *prima facie* place the application in condition for allowance for the reasons stated on the attached copy of an Advisory Action. Since the reply submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), the filing of a request for continued examination under 37 CFR 1.114 (and filing fee of \$395 and submission, which submission requirement may be met by way of an amendment or arguments in reply to the Office action of August 11, 2005), or the filing of a continuing application under 37 CFR 1.53(b).

Accordingly, before revival of this application can be effected, petitioner must submit a renewed petition under 37 CFR 1.137(b), the \$750 required petition fee, and a proper reply (as set out above) to the final Office action of August 11, 2005. The

request for reconsideration must be filed within two months from the mailing date of this supplemental petition. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are available. Failure to timely reply within this two month period or obtain extensions of time thereafter may be construed as intentional delay.


Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Copy of Advisory Action

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/711,662

Applicant(s)

PAINCHAUD, ALAIN

Examiner

Raymond W. Addie

Art Unit

3671

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 6/6, 6/25/06 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


**RAYMOND ADDIE
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: The actual claim language is anticipated by the disclosure of Runner # 6,204,568. See Col. 4, Ins. 9-40. Further, it is noted the claims only require the crankshaft to produce rotations in discrete steps when a vehicle pass over the movable segment. But claim 1 does not require the crankshaft to be operably connected to any electric generating device. Claim 2 permits the crankshaft to produce rotations that are converted into electrical energy, by an undefined "Mean of a technology based on Faraday's law of induction. Which the prior art clearly discloses and specifically illustrates.